

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSE GUZMAN,

Petitioner,

v.

JOHN MARSHALL, Warden,

Respondent.

Case No. CV 09-7173-CAS (OP)

ORDER ADOPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, all the records and files herein, and the Report and Recommendation of the United States Magistrate Judge, de novo. The Court concurs with and adopts the findings, conclusions, and recommendations of the Magistrate Judge, and the objections filed by Petitioner and Respondent, de novo.

IT IS ORDERED that Judgment be entered:

- (1) approving and adopting this Report and Recommendation; and
- (2) directing that Judgment be entered granting a writ of habeas corpus in accordance with the findings of this Report and Recommendation as follows:
 - (a) The Board shall hold a parole suitability hearing to be held within thirty (30) days of the District Court's entry of

Judgment on this decision, in accordance with due process of law and consistent with the decision of this Court;

(b) Petitioner shall be granted parole unless new, relevant and reliable evidence subsequent to the September 30, 2008, parole consideration hearing is introduced that is sufficient (considered alone or in conjunction with other evidence in the record, and not already considered and rejected by this Court) to support a finding that he currently poses an unreasonable risk of danger to society if released on parole;

(c) In the absence of any such new, relevant and reliable evidence showing Petitioner's unsuitability for parole because of current dangerousness, the Board shall calculate at the hearing a prison term and release date for Petitioner in accordance with California law. If the calculated release date lapsed more than five years earlier, there shall be no term of parole imposed upon release unless for good cause the Board determines Petitioner should be retained on parole for a period pursuant to California Penal Code section 3000.1(b); if the release date lapsed less than five years earlier, the release terms may include only that period of the five-year parole eligibility term that remains.

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Petitioner shall remain subject to the discharge
eligibility determination set forth in Penal Code
section 3000.1(b).

DATED: December 28, 2010

Christina A. Snyder
HONORABLE CHRISTINA A. SNYDER
United States District Judge

Prepared by:

[Signature]
HONORABLE OSWALD PARADA
United States Magistrate Judge